



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1143]

Certain Pickup Truck Folding Bed Cover Systems and Components Thereof

Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 7, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Extang Corporation of Ann Arbor, Michigan and Laurmark Enterprises, Inc. of Ann Arbor, Michigan. Amendments to the complaint were filed on February 1, 2019. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pickup truck folding bed cover systems and components thereof by reason of infringement of: the claim of U.S. Patent No. D620,877 (“the ’877 patent”); certain claims of U.S. Patent No. 7,188,888 (“the ’888 patent”); U.S. Patent No. 7,484,788 (“the ’788 patent”); U.S. Patent No. 8,061,758 (“the ’758 patent”); U.S. Patent No. 8,182,021 (“the ’021 patent”); and U.S. Patent No. 8,690,224 (“the ’224 patent”); and U.S. Trademark Registration No. 5,104,393 (“the ’393 trademark”) and U.S. Trademark Registration No. 3,904,016 (“the ’016 trademark”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

A motion for temporary relief filed concurrently with the complaint and amended on February 1, 2019, requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of certain pickup truck folding bed cover systems and components thereof during the course of the Commission's investigation.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 11, 2018, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the claim of the '877 patent; claims 11, 13, 17, and 18 of the '888 patent; claims 1-3, 5, 6, 19, and 20 of the '788 patent; claim 2 of the '758 patent; claims 1-7, and 11-30 of the '021 patent; claims 1-6 and 8-10 of the '224 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of the '393 trademark and the '016 trademark and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “folding cover assemblies for pickup truck cargo boxes and components thereof”;

(3) Pursuant to section 210.58 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, is provisionally accepted and referred to the presiding administrative law judge for investigation;

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Extang Corporation

5400 S. State Road

Ann Arbor, Michigan 48108

Laurmark Enterprises, Inc.

d/b/a BAK Industries

5400 Data Court

Ann Arbor, Michigan 48108

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Stehlen Automotive

21912 Garcia Lane

Walnut, California 91789

SyneticUSA

7141 Paramount Boulevard

Pico Rivera, California 90660

Topline Autoparts, Inc.

1157 Dunswell Avenue

Hacienda Heights, California 91745

Velocity Concepts Inc.

2847 Villa Alta Place

Hacienda Heights, CA 91745

JL Concepts Inc.

21912 Garcia Lane

Walnut, California 91789

DT Trading Inc.

417 W San Marino Avenue

Alhambra, CA 91801

Wenzhou Kouvi Hardware Products Co., Ltd.

No. 10, Xiafeng Road, Xianyan Industrial Zone

Ouhai District, Wenzh City,

Zhejiang Province

China 325204

Syppo Marketing, Inc.

15240 Nelson Avenue

City of Industry, California 91744

Apex Auto Parts Mfg. Inc.

15240 Nelson Avenue

City of Industry, California 91744

Ningbo Huadian Cross Country Automobile Accessories Co., Ltd.

Room 2402 Huijin Building No. 77

Heyi Road

Ningbo

China 315000

Sunwood Industries Co., Ltd

Room 501

Sealand Plaza

#20 Guanghua Street, Changzhou

Jiangsu

China 213001

(c) The Office of Unfair Import Investigations, U.S. International Trade
Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint, motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with sections 210.13 and 210.59 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13, 210.59. Pursuant to 19 CFR 201.16(e), 210.13(a), and 210.59, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, motion for temporary relief, and the notice of investigation. Extensions of time for submitting responses to the complaint, motion for temporary relief, and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Lisa Barton
Secretary to the Commission

Issued: February 12, 2019

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